

Notice of Allowability

Application No.

10/626,918

Examiner

Sherman D. Basinger

Applicant(s)

SCHNEIDER, DAVID P.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 14-19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20050916
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. David Schneider on September 16, 2005.

The application has been amended as follows:

Claims 1-13 have been canceled.

The following claims have been added:

Claim 14. (new) A shark repellent apparatus comprising:

A rescue flotation buoy having a nozzle at a first end, a containment release at a second end and at least one handle located between said first and second ends;

A pressurized repellent material containment and dispensing device having a proximal end and a distal end, said containment and dispensing device being received within said rescue flotation buoy during use and being removable therefrom;

Dispensing means for serially dispensing multiple applications of shark repellent material, said shark repellent material comprising sodium lauryl sulfate, said dispensing means being disposed at said proximal end of said containment and dispensing device and being disposed at said second end of said rescue flotation buoy, said dispensing means comprising a valve, a spring loaded squeeze grip and a tube connecting said valve to said nozzle; and

Wherein said containment and dispensing device is removable from said rescue flotation buoy through said containment release for refilling with said shark repellent.

Claim 15. (new) The shark repellent apparatus as set forth in claim 14, wherein each one of said multiple applications is effective in repelling a shark.

Claim 16. (new) The shark repellent apparatus as set forth in claim 14, wherein said flotation buoy

comprises an environmentally rugged hard plastic shell.

Claim 17. (new) The shark repellent apparatus as set forth in claim 14 wherein said flotation buoy comprises a low cost foamed plastic.

Claim 18. (new) The shark repellent apparatus as set forth in claim 17, wherein said low cost foamed plastic is polystyrene.

Claim 19. (new) The shark repellent apparatus as set forth in claim 14 wherein said flotation buoy is inflatable.

2. The following is an examiner's statement of reasons for allowance: Applicant called the examiner on September 16, 2005 to propose changes to the claims in which claim 1 would be amended to add "permanently" in line 7 after "incorporated", "during use" and "detachably integrated with said rescue flotation buoy" would be deleted from paragraph b in favor of "internally pressurized to at least 100 pounds per square inch" and in paragraph c "of at least three seconds duration" would be inserted after "multiple applications". Further applicant proposed to amend claim 7 to change "vest" in paragraph a to -buoy-.

The examiner stated that support for much of what was proposed appeared to lack support in the specification as originally filed and that the changes proposed failed to define structure which was clearly patentable over the prior art of record.

Applicant also discussed amending figure 1 of the drawings and deleting figure 2 of the drawings. The examiner pointed out that issues of new matter with regard to amending figure 1 of the drawings may be raised. However, deleting figure 2 was acceptable if the specification were amended to delete all references to figure 2.

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The examiner stated to the applicant that he could suggest to applicant changes to the claims which would make them patentable over the art of record. It was agreed that the examiner would formulate proposed changes to the claims to render them patentable over the prior art of record and call applicant back as soon as possible.

The examiner called applicant back on September 16, 2005 and suggested claims 14-19 above in place of the pending claims. Applicant agreed to amending the application by examiner's amendment such that claims 1-13 were canceled in favor of new claims 14-19.

Claim 14 and the claims depending therefrom are allowable over the prior art of record because the prior art including GB 2,176,732 and Iller do not suggest or fairly teach a rescue flotation buoy having a nozzle at a first end, a containment release at a second end and at least one handle located between said first and second ends; a pressurized repellent material containment and dispensing device having a proximal end and a distal end, said containment and dispensing device being received within said rescue flotation buoy during use and being removable therefrom; and a dispensing means for serially dispensing multiple applications of shark repellent material, said shark repellent material comprising sodium lauryl sulfate, said dispensing means being disposed at said proximal end of said containment and dispensing device and being disposed at said second end of said rescue flotation buoy, said dispensing means comprising a valve, a spring loaded squeeze grip and a tube connecting said valve to said nozzle.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-

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272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger
Primary Examiner
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Friday, September 16, 2005